

**Testimony
of
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**Nominee to be a Member
of the
Federal Energy Regulatory Commission**

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**Chairman Murkowski, Senator Bingaman, and distinguished members of this
Committee. I am both honored and humbled to appear before you today.**

**I am grateful to Senate Majority Leader Trent Lott, who is and will continue
to be America's Senator from Mississippi. His friendship and his work on my behalf
have been personally gratifying.**

**My presence before you today reflects the work and effort of those who have
confidence in me, and I am appreciative of every effort that has been made on my
behalf leading to this most significant moment.**

**Additionally, I am appreciative of Senator Thad Cochran's efforts on my
behalf. Senator Cochran has provided tremendous leadership for our State and for
our Nation.**

I would also like to thank the administration for their confidence.

During my term at the FERC, I have found the work interesting, the pace challenging and the personnel hard-working. I have appreciated Chairman Hoecker's efforts at open discussion, consultation and accommodation of not only my views, but also the views of my colleagues. I believe we are looking for the same result: a market that works.

There is a revolution in the energy industry consisting of gas, electric, and hydro initiatives. The revolution in the gas industry beginning with the Wellhead Decontrol Act reached its fullest incarnation with the issuance of Order No. 636 in 1992. In the past year and a half, the Commission has done an inquiry into what is the legacy of that Order -- have we reached the potential that was set out before the industry with the passage of Order No. 636? Well, there's good news and bad news, but it is the same news, because you see some want the revolution and some fear it.

To begin with, any revolution must have supporters to be successful, and with natural gas's reputation as an environmentally attractive, clean fuel, with an estimated growth in demand to 30 Tcf by the year 2010, and with the projected

increase in pipeline construction to meet that demand, natural gas has supporters in all arenas: end-users, suppliers and government.

At the FERC last July, the Commission issued a gas Notice of Proposed Rulemaking (NOPR) and Notice of Inquiry (NOI) which seemed to indicate that the full benefits of the revolution of Order No. 636 were not being recognized. The Commission's proposal in the NOPR indicates the Commission's interest in encouraging appropriate market valuation for capacity in this industry. To the extent our use of regulation can utilize market valuation, we will be fully exploring the benefits of competition and the revolution will not wither but will thrive.

We have made a lot of progress in the last year on our journey toward a competitive and seamless electricity market. For example, we extended market-based rates from generation to ancillary services.

In addition, we continued to oversee competitive markets in California and directed the ISO to fix the problems that caused great price volatility over last summer. We issued a merger NOPR to codify the policies we applied in existing cases and requested comments on whether vertical mergers warranted our attention

and to what degree. But most important of all, we started down the road to solving the problems of transmission: the Independent System Operator (ISO), Transco, Regional Transmission Organization (RTO) debate. Back in April 1998, FERC held a conference on ISO's and alternative organizations; over the spring and summer we held seven regional conferences, we issued a notice of consultation with the states, and recently a notice of proposed Rulemaking on RTO's.

Well, after listening and reading, I have come to the following conclusions about where we go from here. First, FERC has a role to play, albeit a limited one. The market, not FERC, knows what size to make regional transmission organizations and how to govern them. However, FERC must give general guidance. I agree with the list of: 1)independence, 2)sufficient operational control, 3)proper size, and 4)"open architecture". But at the end, it's only about one thing: efficiency.

Efficiency must be our ultimate goal. Why do we deregulate? We do so to find efficiencies through market behavior. To get there, FERC must institute incentive rates with proper review of customer satisfaction and oversight. Efficiency also includes safety and reliability. Both of which we can insure through incentives.

Second, and tied to the Commission's limited but important oversight role, FERC must allow for changes as our economy expands and technology allows for longer transmission distances. Forty years ago, economic transmission distance stood at 250 miles, after that the loss of electrons made it uneconomic to transmit. Today, we measure economic transmission distance at 1,000 miles: in the future, who knows? On the other hand, the development of distributive generation may make transmission unimportant, so we must be flexible.

Third, we must entertain for-profit Transcos as viable transmission models. We must give these organizations time to form.

FERC is providing appropriate leadership in the transmission arena by formulating a federal policy for Regional Transmission Organizations, developing guidelines for Transco filings, and encouraging electric utilities to pursue the transmission alternative. RTO policy guidelines should be subject to performance based regulations of prices and tariffs and will provide benefits of independence and open access to the transmission system as per Orders Order 888 & 889, with pricing of all services pursuant to the performance based tariff. In this way, a Transco will

ensure both short-term and long-term reliability of grid operations and compliance with applicable standards. A Transco will have ownership and operational control of the interconnected transmission facilities within its territory and will be responsible for making sustaining investments to ensure transmission assets are properly maintained over time.

If indeed we are to provide alternatives to transmission through incentives, we should also include, as an incentive, an expeditious filing mechanism by giving applicants a definitive order within 6 months of their filing, if the applicant meets the filing requirements. Rocket dockets are a good idea.

I stand ready to commit my offices to work with the FERC staff, my colleagues, and with all state commissions, to ensure that as we move into a restructured environment, we do so with alternatives and opportunities on the table ensuring reliable efficient electricity in the future. I have talked about gas and electricity, now hydro.

The Order in the Edwards case gives rise to the question of whether decommissioning of hydroelectric facilities will be accomplished through direct and

statutory means, by an express authorization from Congress, or through the use of a non-power license as expressly intended. In simpler terms, the question is, "Who pays and who decides?"

The legislative history of the decommissioning issue is clear to those who reasonably review and interpret the expressions made by the Congressional leaders during the enactment and amendments to the Federal Power Act (FPA).

My Edwards dissent makes it even clearer how I view the congressional expressions of the decommissioning issue in the Atomic Energy Act which preceded the amendments made in '68 and '86 to the FPA. No intent exists in the FPA in regard to granting the Commission the authority to destroy and dismantle a hydroelectric facility over the objection of the owner, and require the destruction and removal at the expense of the owner, all without just compensation for the facilities.

More than 221 hydropower licenses are set to expire in the next dozen years. Taken together, the projects have a combined energy capacity of 22,000 megawatts. That amounts to 22 percent of total U.S. hydropower and represents nearly four out of every 10 dams that FERC licenses.

There is no perfect solution, and we must all recognize the tradeoffs and compromises which must be made. Hydro and nuclear energy must play a major role in the future of America. The benefits must be enhanced and fostered as technology accelerates the efficiencies of each source of energy.

We need a proper fuel mix in the future of our country. Gas, hydro, coal, nuclear and others. Fuel diversity is an obligation of us all and has historically proven to be a major strategy of defense. As stewards in the energy industry, we at FERC must encourage and foster such diversity.

Mr. Chairman, I have briefly tried to acquaint you with my experience on the FERC, which has given me a tremendous opportunity to both learn and contribute to the regulation of utilities in all their complexity.

I am fortunate to have been given many opportunities that have served me well, but I have also been able to benefit those who entrusted me with responsibility.

On a personal note, appearing before you today is both rewarding and a little intimidating. My goal as a young man was to serve the people of my great state, Mississippi. My goal now is to serve the people of this great nation, the United States

of America. I have consistently endeavored to be of service in any fashion that promotes the common good and represents the best of the ideals that are so much a part of this great country.

I stand ready to work with Chairman Hoecker, Vicky Bailey, Bill Massey, and Linda Breathitt to move America forward. What I have provided you with today are not the answers, they are my answers. My answers alone will not be enough. But, together we can do it right and together we can make a difference. I look forward to your questions.